Passed
B.

FOR MYSORE STATE

Home (1953) Department.

MS SERIES.

G.O. NO. 790

Dated 9. 3. 53

[Despatch Abstract.]

Prisoners - Advisory Board - Central Jail, Cannanore - Convict No: 4450, Venkappa Hosli - Release - Ordered —

Government of Madras

Copy of letter No. 145/S4/53, dated 19th January 1953 from the Inspector General of Prisons, Madras to the Secretary to Government, Home Department, Madras:

Advisory Board - Central Jail, Cannanore - Case of Lifer convicts - Recommended for premature release - Papers - Submitted.

Under Rule 310-A(a) of Part I, Madras Prison and Reformatory Manual, Volume II, I submit the following papers relating to the convicts mentioned inthe annexure for orders of the Government. These papers were placed before the Advisory Board which met at the Central Jail, Cannanore, on 11-1-1953.

1. Proceedings of the Board
2. Recommendation rolls
3. Advisory Board Working Sheets
4. Nominal Rolls
5. Reports of the Police and the District Magistrates
6. Copies of judgment of the lower and appellate courts.

2. I agree with the recommendation of the Board.

Annexure

No.	Name	Order under which submitted
4395	Padavetti @ Patta-parambil Raman	G.o. Rt. 3354, Home, dated 8-12-51
4450	Venkappa Moili	G.O. No, Rt. 287, Home, dated 29-1-52
4577	Chettiraman	G.O. No. Rt. 322, Home, dated 1-2-52
4648	Alami	G.O. No.Rt. 327, Home, dated 1-2-52
4913	Nellancheri Parambil Kiliyan	G.O. No. Rt. 219, Home, dated 12-1-52
12329	Vaithi Thevar	G.O. No. Rt. 3513, Home, dated 24-12-51
12635	Koonu Manickam Pillai	G.O. No. Rt. 289, Home, dated 29-1-52.

/true copy/

Extract from the Proceedings of the Advisory Board meeting held at Central Jail, Cannanore on 11-1-53.

The cases of the following lifer convicts are not recommended for conditional release.

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2. 4450 Vengappa Moili - Recommended.

/True Extract/-

Superintendent.

12546/53

Judl. (Jail II)-92—8,456—14-9-51.

Roll of convict recommended for conditional release under the Intermediate sentences scheme sanctioned in G.O. No. 667, Law (General), dated 26th February 1923.

1. Name of jail	Central Jail, Cannanore
2. Convict number and name	4450 Venkeppa Moili
3. Father's or Husband's name	Thimmappa Moili
4 Residential address including taluk and district.	Iddya, Mangalore, South Kanara
5. Court by which the prisoner was convicted and case number.	Sessions Judge, South Kanara, SC-13/46
6. Section of the I.P.C. or other law under which convicted.	302 IPC.
7. Date of sentence	19-7-46
8. Period of sentence	Transportation for life
9. Date on which convict completed two thirds of his sentence.	9-2-52 (Second time)
10. Unexpired portion of sentence on date of recommendation by the Board, including remission earned (remission granted in celebration of pub lic events should be excluded).	Y. M. D. 5- 6- 11 (Remission granted in celebration of Public events included.)

P.T.O.

I enquired into this reference. at Iddya village. They are coolies by proffession. Enquiries as per the annexure attached show the following. (1) The locality welcome his premature release and no adverse circumstance is likely to appear (2) The relatives of the victim have no revenge and they have no objection to the convicts release. (3) The life of the accused would be safe if he is released. (4) The accused who was a colly joined the military as a sepoy. The offence took place because he acted with violence on his sister being humilated by some persons. His original conduct was quite normal and peaceful (5)The respectable inhabitants of the locality welcome his release.	
11. Full " police " history with recommendation of the District Superintendent of Police.	victim have no revenge and they have no objection to the Convicts premature release. There is no danger to the life of the Convict if released prematurely. His conduct was reported to be good. ThePremature release of the Convict is recommended. Sd/- D.S.P., South Kanara.
	2 5 he prisoner is lations of the the premature ion and as the ot seek revenge released. I agree Sd/- D.C. Magistrate, South Kanara.
13. Remark of the Superintendent of the Jail on the conduct of the convict in prison.	Satisfactory.
14. Recommendation of the Advisory Board with detailed reasons when the Board differs from the Superintendent of Police or the District Magistrate.	Recommended. Sd/- President

Cannanore Central Jail,

Dated 11-1- 1953.

Superintendent

Convict No.4450.

7

Working sheet as on 23-12-51.

19- 7- 46	
0- 4- 13	
18-11- 59	
0- 9- 7	
18- 2- 52	
9 to be earned	
9- 2- 52	

Un expired portion of sentence

18- 7- 66	
11- 1- 53	
27- 6- 13	
26-11- 7	
1- 6- 5	

Particulars of remission

Convict		243
G.C.R.		45
S.R.		37
I.D.S.R	'47	1200
	48	60
	49	15
RSR.		1200
		2800
Conversion		25
		2825

Remission earned after 23-12-51.

Convict	50
S.R.	30
Conversion	6
	2911 days

Superintendent,
Central Jail, Cannanore.

mvr.

FORM No: 52. (*See* Rule 879, Part I of Vol. II, M.P. and R.M.) Judl. (Jail II)-13.

NOMINAL ROLL OF MALE* CONVICT No. 4450† A

Name Venkappamoli S/o Thimmappamoli

Residence (Village, Taluk and District.) Iddya ; Mangalore ; S. Canara

Caste Hindu Moili. Present age 29 years. Occupation Weaver

Section and Code under which imprisoned. 302 IPC

Original sentence of order and date. Transportation for life 9/19-7-46

Adjudicating Court and Calendar number of case. Sessions Judge : S. Canara Sc 13/46

Unexpired term of sentence after deducting remission earned. 5 year(s) 6 Month(s) 11 Day(s),

Present state of health and fitness to undertake a journey. IH

4-50.

Result of appeal (if any) Declined.

Conduct in Jail Satisfactory

Personal and descriptive marks* —

Remarks Class C - Ricardo - Education C -
Direct Committal.

* Strike out and add "Female" when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a Casual (and whether Star) or Habitual, respectively, and after the letter, add the number of previous convictions, thus—No 3742 B-2.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical Officer.

§ Personal and descriptive marks are to be given when (1) rolls accompany prisoners transferred, (2) police assistance is sought for the recapture of an escaped prisoner. (Rule 549, Part I of Vol. II, M.P. and R.M.)

Superintendent.

Committal JAIL.
11 - 1 - 1952

R46/Bellary Express 21185/D/52
R7/4356/44-52/52

Jail II-87—33,250—21-3-52.

No. J. OFFICE OF THE SUPERINTENDENT,
Cannanore Central Jail,
Dated 23-10-1952

From The Superintendent,
Central Jail, Cannanore

To

THE DISTRICT SUPERINTENDENT OF POLICE,
S. Kanara Mangalore

SIR,

As the Advisory Board constituted by G.O No. 667, Law (General) Department, dated the 26th February 1923, as published in Part I of the *Fort St. George Gazette* dated the 6th March 1923, is to sit at this *Jail* shortly, I have the honour to request that you will be so good as to favour me promptly with full and accurate details of the previous history in the case of Convict No. 44450 Venkeppa Moili who was sentenced in S.C. No. 13 of 1946 on the file of the Sessions Judge S. Kanara as it is one of those to be placed before the Board for consideration.

2. As the matter does not admit of delay, I shall be obliged if you will kindly give it your personal attention and forward the required details with all possible haste through the District Magistrate, S. Kanara so as to be received ~~well in time~~. Rev 15. 11. 52

Enclosures to be returned with reply :—

(1) Copy of judgment in S.C. 13/46

2) Nominal roll

COLLECTOR
9-DEC 1952

Yours faithfully,
Superintendent.

[P.T.O.

12 R7/4360/1450/52

Endorsement No. *J.R., dated the* 23.10.1952.

Copy communicated to the District Magistrate, Kanara for favour of supplementing the details with such information and remarks as may seem to be appropriate and necessary towards the end in view.

2. At the suggestion of the Board, it is further requested that it may be definitely stated whether or not the prisoner can be released without injury to the community.

sd/——

Superintendent.

16/11/52

To

The District Magistrate Kanara

Express —

D. Ref. No 21115/con/52

Transfer for enquiry & report within 3 days

D.S.P.

POLICE CIRCLE OFFICE, MOODABIDRE

N.U. 1952

Encls D. No

Encl-2 as per margin

Enquiry + report in 2 days

SUPERINTENDENT CENTRAL JAIL CANNANORE

THE POLICE OFFICE, TELLICHERRY
26 NOV 52

DISTRICT MAGISTRATE
3 DEC 52

POLICE SUBDIVISIONAL OFFICER
3 DEC 1952
TALLICHERRY

1. Re-submitted

I enquired into the reference. The father and mother of the Convict are at Idalgo Village. They are Coolies by Profession. Enquiries as per the Enquiry Report attached show the following

The locality welcomes his Premature release and no adverse circumstances is likely to ~~happe~~ appear

2. The relations of the victim have no ~~feeling~~ revenge and they have no objection to the Convict's release.

The life of the accused would be safe if he is released

The accused who was a Coolie joined the military as a sepoy. The offence took place because he acted with violence on his sister ~~killing~~ humiliated by some Persons. His original Conduct was quite normal and Peaceful.

5. The respectable inhabitants of the locality welcome his release.

S.I. 26/11/52

Submitted with the
report of S. I. Rudolph

J. S. Ruby
F. Joseph
27/11

ANNEXURE (to be returned).

Convict No. 4452 and Name Vankatapa Naik 215

The Government direct that the previous history of the Above prisoner should contain the information on the following points, and the District Magistrate and District Superintendent of Police are requested to furnish the same.

1.	Report of the District Supdt. of police 2.	Opinion of the District Magistrate 3.
1. What will be the reaction in the locality, if the prisoner is released prematurely.	There will be no reaction if the prisoner released prematurely	
2. What the feeling of the relations of the victim of victim of the offence who sufferred at the hands of the accused will be in case of premature release;	The relations of the victim have no revenge and they have no objection to the premature release.	
3. Whether the life of the accused itself will be safe if he is to be released prematurely;	There is no danger to the life of the convict if released prematurely	
4. The past history and conduct of the accused.	His conduct was reported Hoe good.	
5. Any additional information relating to the prisoner.	The premature release of the convict is recommended	
	District Supdt. of Police.	District Magistrate.

(Vide Govt. Memo No. 17013 Prisons-II/50-3 Dated D/ 21-3-50)

To

The Superintendent Central jail Cannanore through.

Mvr/- District Magistrate Kannara

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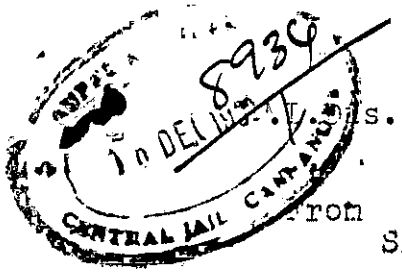
I am not prepared to accept this report written by an irresponsible SI whose duty does not bother to look into things but wants to be a post office.

There also appears to be a desperate character & it is quite likely that there is danger to the lives of eye witnesses. Let this go to the ASP for his remarks

2/12 Yo
A.SP (H)



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Cls. 7814/52. S.K..t. agistrate's office,
Mangalore d/ 12-12-1952.

From

Sri C.A.Ramakrishnan I.C.S.,
Lt.Magistrate of South Kanara.
Mangalore.

16/12

To

The Superintendent,
Central Jail,
Cannanore.

Sir,

PRISONER:Convict No. 4450- Premature- release-

Ref:Your letter No. J.7. 4360/4450/52 dated 28-10-1952.

*****

The Dt.Superintendent of Police, Kanara has recommended the premature release of the convict Venkappa Moili as there will be no reaction and as the relations of the victims will not seek revenge, if the convict is prematurely released.

2/- I agree with the Dt.Superintendent of Police's recommendation.

/By order/ Head Clerk. 18/12

mv 13-11- 13/12

ASSESSOR CASE.

In the Court of Sessions, South Kanara.

July Sessions.

Friday, the 19th day of July, 1946.

POLICE CIRCLE OCT 1951

PRESENT:—P. RAMALINGAM, ESQ., I. C. S., Bar-at-Law.,
Sessions Judge.

Sessions Case No. 13 of 1946.

NAME OF THE ACCUSED: Venkappa Moili.

CHARGE: Murder—Section 302 I.P.C.

ASSESSORS: Messrs. 1. Nagar Balakrishna Rao (G. S. Brahmin.)
2. A. Misquith (R. C. Christian.)
3. H. Vamana Nayak (Chaptegar, Hindu.)
4. Padmanabha Suvarna (Billava.)

OPINION OF ASSESSORS: Assessor No. 1 is of the opinion that the accused is guilty of murder under section 302 I.P.C., while the other three Assessors are of the opinion that the accused is guilty of culpable homicide not amounting to murder, under section 304 I.P.C.

FINDING OF THE JUDGE: Guilty of murder under section 302 I.P.C.

SENTENCE: The accused is sentenced to transportation for life.

The accused was defended by Sri. S. Nagarajiah, pleader (Crown Brief.)

The case was committed by Sri U. Lingappaya, B. A., Stationary Sub Magistrate, Mangalore, in R.C. No. 2/46 on his file (F.I. No. 27/46 of Mulky station.)

Judgment.

The charge against the accused, Venkappa Moili, is that on the 23rd of March 1946 at Iddya village, he committed murder by intentionally causing the death of Lokaya Moili by stabbing him with a pen-knife, an offence punishable under section 302 I.P.C.

2. The accused has pleaded not guilty to the charge.

3. The main eye-witnesses to the occurrence are P.W.6 a neighbour, P.W.7 a teacher in the Vidyadayini Higher Elementary School in Suratkal, and P.W.10 a cook in the hostel attached to the same school. Their story is as follows. The accused is a weaver by profession, and was living in the village with his parents. He left the village some four or five years ago and returned some six months ago. On Saturday at about noon, the accused went and sat down in the shop of P.W.6, and wanted *atibeeda* for a quarter of an anna. P.W.6 told him that he had none. The accused abused him taking his mother's name. P.W.6 rebuked him. On the other side, the deceased was seated in his shop dividing a custard apple among some children. (It is rather curious that both P.W.6 and the deceased had each some congenital defect in one leg, and was able to walk about only in a halting manner). The deceased called out to the accused, and rebuked him saying that P.W.6 and he were both lame, and the accused should not quarrel with such people. The accused retorted, "You are lame, and so is he. You will see the fun of lame men now." The deceased was seated on his verandah. The accused went up and pushed him back, and the deceased fell down on the ground. Thereupon, the accused drew a pen-knife from his waist and stabbed the deceased on the left side of the abdomen. The deceased tried to catch hold of the accused, but the latter managed to give him a second stab on the left fore-arm. Then the accused began to run away. P.W.6 declares that he called out to P.W.8, (who is a nephew of the deceased,) and who was in the house behind the deceased's shop. When he came out P.W.6 requested him to catch hold of the accused. P.W.8 tried to do so but the accused escaped. Then P.Ws. 7 and 10 arrived there. The deceased told

the threshold, with him ... escape to the ... He then speaks to the ...

He was bleeding. He then speaks to the fact that he saw the accused, who had stabbed him and was escaping, but the accused raised the knife and threatened him.

5. P.W.7 was leaving his school, and was about 75 yards away from the sho of the deceased, when he declares that he saw the accused push the deceased dow and also saw the accused escaping with an open pen-knife in his hand. He also saw the attempt made by P.W.8 to catch hold of the accused. He then speak arm. He also saw the accused escaping with an open pen-knife in his hand. H speaks to the attempt made by P.W.8 to catch hold of the accused. He then speak to a later incident. P.W.10 was sent out on a bicycle to fetch a doctor, but th accused stopped him on the way, abused his knife. P.W.7 followed him and saw the accused him, and went away towards Santhekatte. P.W.7 followed him and saw the accused stopped him on the way, abused his knife. P.W.7 followed him and saw the accused returning on the bicycle with the knife in his hand. He was crying out, "I have done away with one, and I will do away with another." Many people gathered there. The patel was also present. Finally, some persons including Ahmed, Louis Mascarenhas, and others surrounded the accused, and disarmed him. He was then handed over to the police.

6. The next witness, P.W.10 was standing on the verandah of the hostel, when he saw the accused walking at a fast pace towards the shop of the deceased from the shop of P.W.6. He saw him necking the deceased, and pushing him back. He then raised a knife and stabbed the deceased on his stomach. When he reached the house by the road, accused gave a second stab on the arm of the deceased. The accused then came out towards the road, and he saw P.W.8 chasing him. The accused threatened him with a knife. Later, P.W.10 declares that on the request of the deceased, he got up on a bicycle and started for the north to Santhekatte. The witness overtook the accused in front of the school. The accused stopped him, and demanded the bike and he gave it in fear. The accused then rode away to the north. He followed him and saw the accused standing on the road holding the bicycle, and saying that he had done away with one person, and that he wanted to do away with another. The witness went and brought a doctor. The patel also followed them. Later he came to Mangalore, took a taxi and had the deceased removed to the hospital here.

7. P.W.9 is the sister of P.W.8 and speaks to the fact that, after the custard apple was divided, she went and gave a piece to P.W.6. She came back, attracted by the cries of her brother, and saw the deceased fallen down with injuries. The accused was running away. She raised an alarm which brought P.W.8 to the spot. She then corroborates the story of P.W.6 that P.W.8 was directed to catch hold of the accused.

8. Next, there is the evidence of P.Ws. 11 and 12, who describe the circumstances in which the accused was arrested. They speak to the fact that he came riding on a bicycle from south to north with an open knife in his hand, stating that he had done away with one person, and was going searching for another. Then he went near the stores and got down, repeating the same remark and brandishing his knife. Then he got upon his bicycle, and went away towards the north. In the meantime, P.W.12 asked the men to catch hold of the accused carefully. The accused returned in five, or 10 minutes. Thereupon P.W.11 and [illegible] caught hold of the accused from behind. P.W.11 wrested the knife from the accused, and handed it over to P.W.12. The blade of the knife M.O.1 was bloodstained. The accused was also handed over to the patel, P.W.12.

9. P.W.12 corroborates the story of P.W.11. He recorded Exhibit P1 from the deceased who was lying injured in his shop, and sent report to the police and the Magistrate. He also sent Exhibit P1 and M.O.1 to the police through Ramaraya Bhandary.

P.W.10 to go and fetch a doctor. P.W.10 took a bicycle which was in the yard and left. Many people gathered there. A little later, P.W.1 came there along with the patel and gave first aid. The deceased was then taken in a taxi to Mangalore where he died after an operation at about 6-30 P.M. that day. According to P.W.6, the accused left the place with the open knife in his hand.

4. P.W.8 corroborates the story of P.W.6. He was in the house reading, when he heard the cry of his sister P.W.9. He ran out and saw the deceased sitting on the threshold, with his hands covering the injury on the left side of the abdomen. He was bleeding. He then speaks to the request of the deceased to catch hold of the accused, who had stabbed him and was escaping. He ran forward to chase him, but the accused raised the knife and threatened him.

5. P.W.7 was leaving his school, and was about 75 yards away from the shop of the deceased, when he declares that he saw the accused push the deceased down and stab him with a knife. He saw two stabs being given on the abdomen and the arm. He also saw the accused escaping with an open pen-knife in his hand. He speaks to the attempt made by P.W.8 to catch hold of the accused. He then speaks to a later incident. P.W.10 was sent out on a bicycle to fetch a doctor, but the accused stopped him on the way, showed his knife, took the bicycle by force from him, and went away towards Santhekatte. P.W.7 followed him and saw the accused returning on the bicycle with the knife in his hand. He was crying out, "I have done away with one, and I will do away with another." Many people gathered there. The patel was also present. Finally, some persons including Ahmed, Louis Mascarenhas, and others surrounded the accused, and disarmed him. He was then handed over to the police.

6. The next witness, P.W.10 was standing on the verandah of the hostel, when he saw the accused walking at a fast pace towards the shop of the deceased from the shop of P.W.6. He saw him necking the deceased, and pushing him back. He then raised a knife and stabbed the deceased on his stomach. When he reached the house by the road, accused gave a second stab on the arm of the deceased. The accused then came out towards the road, and he saw P.W.8 chasing him. The accused threatened him with a knife. Later, P.W.10 declares that on the request of the deceased, he got up on a bicycle and started for the north to Santhekatte. The witness overtook the accused in front of the school. The accused stopped him, and demanded the bike and he gave it in fear. The accused then rode away to the north. He followed him and saw the accused standing on the road holding the bicycle, and saying that he had done away with one person, and that he wanted to do away with another. The witness went and brought a doctor. The patel also followed them. Later he came to Mangalore, took a taxi and had the deceased removed to the hospital here.

7. P.W.9 is the sister of P.W.8 and speaks to the fact that, after the custard apple was divided, she went and gave a piece to P.W.6. She came back, attracted by the cries of her brother, and saw the deceased fallen down with injuries. The accused was running away. She raised an alarm which brought P.W.8 to the spot. She then corroborates the story of P.W.6 that P.W.8 was directed to catch hold of the accused.

8. Next, there is the evidence of P.Ws. 11 and 12, who describe the circumstances in which the accused was arrested. They speak to the fact that he came riding on a bicycle from south to north with an open knife in his hand, stating that he had done away with one person, and was going searching for another. Then he went near the stores and got down, repeating the same remark and brandishing his knife. Then he got upon his bicycle, and went away towards the north. In the meantime, P.W.12 asked the men to catch hold of the accused carefully. The accused returned in five, or 10 minutes. Thereupon P.W.11 and [illegible] caught hold of the accused from behind. P.W.11 wrested the knife from the accused, and handed it over to P.W.12. The blade of the knife M.O.1 was bloodstained. The accused was also handed over to the patel, P.W.12.

9. P.W.12 corroborates the story of P.W.11. He recorded Exhibit P1 from the deceased who was lying injured in his shop, and sent report to the police and the Magistrate. He also sent Exhibit P1 and M.O.1 to the police through Ramaraya Bhandary.

P.W.10. The accused stated before the committing Magistrate that he did not commit any offence, and that he does not admit the offence. In this court, he denies that he went to the shop of P.W.6, or that he asked for *beeda*. He adds that there was enmity between him and the elder sister of the deceased. He was washing his clothes one day in a tank, and she came there. Some water splashed on her and there was exchange of words. P.Ws. 7 to 10 did not see anything, and they might be deposing falsely at her instance. P.W.11 and the patel are speaking falsely. He did not snatch the bicycle from P.W.10 and ride away with it. M.O.1 is not his. He declares that he went to the deceased's shop to buy one anna worth of *beedies* and soap. At that time Subba, Lokayya, the deceased, and Babu were engaged in a quarrel. He separated Subba and the deceased. All of them then fell upon him. He was pressed on his neck. He got a nail scratch on his neck. When he got up, he found injuries on his palm. He does not know how the injuries were caused to him. He did not stab the deceased.

11. The accused had no defence witnesses to examine on his side.

12. The medical evidence in the case has been given by P.Ws 1 to 4. It leaves no room for doubting, that the deceased received two injuries caused by a sharp weapon. One was an elliptical incised wound on the left side of the abdomen. The second was an incised wound 6" x 1" x ½" running from the left arm to the upper end of the posterior aspect of the left fore-arm. There were also scratches, and other incised wounds on his palm and fingers. P.W.2 is of opinion that M.O.1 could have caused all these injuries. The man was operated upon, as that was the only chance he might have had of surviving. He died at about 6-30 P.M. I find, therefore, that the deceased received the fatal injury from an assailant armed with a sharp weapon and that this is a clear case of murder.

13. The next question for consideration is, whether the charge has been brought home to the accused. It is significant that the accused simply declared in the lower court, that he did not admit the offence. In this court, he began by stating that he did not visit the shop of P.W.6, and did not pick up a quarrel with him. But lower down, he admits that he went to the shop of the deceased and that he became involved in a quarrel that was going on there. His story that the deceased, Subba, Lokayya and Babu were all quarrelling together, and that on his intervention, they all turned round and attacked him without cause is obviously fantastic. The motive put forward for any such attack is also extremely unconvincing. The accused declares that some months earlier, there was a quarrel between the elder sister of the deceased and himself, when they were washing clothes, because some water was splashed on her by him. Apparently nothing happened thereafter, and it is absurd to suggest that, because of this petty incident, the deceased bore a grudge against him, and deliberately picked up a quarrel; when the accused was intervening as a peacemaker, and proceeded to attack the accused and cause injuries to his fingers and palm. I consider that the pretence of the accused that after he was pushed down, and received a scratch on his neck, he does not know how he received the other injuries found on his fingers, is altogether incredible. It cannot be pretended even for a moment, that the accused was so badly mauled by his assailants, that he lost his senses, and that he could not remember what happened afterwards. On the other hand, the medical evidence fully supports the story of the eye-witnesses, that the accused was seen to draw out the knife M.O.1 deliberately and stab the deceased first, on the left side of the abdomen and again on the left fore-arm. As the handle of M.O.1 is rather small it is not improbable that the injuries on the palm, and fingers of the accused were inflicted either when he was using M.O.1 to stab the deceased, or subsequently when it was wrested from him forcibly by P.W.11. In fact, the latter possibility appears to me to be more likely.

14. On behalf of the accused, his learned vakil has put forward a number of suggestions. But I do not consider that any of them is worthy of acceptance. The first point urged by him is, that the accused was suffering from some unsoundness of mind at the time, and was not capable of knowing the nature of the act, or that he was doing what was wrong, or contrary to law. There is absolutely no basis for coming to such a conclusion on the evidence produced in the case. It is true, that there is an admission by P.W.12, that, when the accused was about 15 or 16 years of age, he stabbed another boy in a fit of temper, but the injury inflicted was

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apparently trivial. There is no other evidence of any lack of mental balance on the part of the accused. Then the evidence of the prosecution witnesses goes to show that some 4, or 5 years ago, the accused went off to Bombay, and apparently joined the Navy as a waterman. He seems to have obtained a discharge, some 6 months before the offence, and returned to the village. His profession was weaving, and he was living with his parents, and brother and sister at the time, and no one noticed anything unusual about his behaviour.

15. Next, there is an admission by P.W.6 that, when the accused came to his shop, he appeared to be drunk, and a statement of P.W.8, that the accused used to drink. The only other circumstance, that has been elicited in the evidence is that there was a devil dance in the village on the previous night and that the accused took part in it. But no other witness is prepared to state that the accused was in an intoxicated condition, or that his behaviour was in any way indicative of any mental aberration, or any kind of mania. The learned vakil, however, draws attention to the remark said to have been made by the accused, when he was standing with his bicycle at Santhekatte, when he declared that he had done away with one person, and was looking out for another. It is true that this suggests some kind of unusual exaltation of spirit, but apparently the accused having done the deed, was in a defiant and reckless mood and was threatening to deal with one and all, who attempted to intercept or arrest him. I am not satisfied that the accused was intoxicated or was under the influence of any narcotic at the time he committed the offence. But even if that was the case, under the law, intoxication when self-induced, cannot be regarded as a mitigating factor in a crime of this kind. The most, that can be said to have been established by the evidence, is that the accused was a man of a fiery temperament and was rather over-hasty and reckless in his actions, but this is very far from the contention, put forward by the learned counsel that the accused was suffering from some kind of mania, or mental affection, and that it was when he was under the influence of this mental infirmity, that he made the fatal attack upon the deceased.

16. So far as the eye-witnesses are concerned, I consider that they have given their evidence in a very straightforward and convincing manner. There is absolutely no evidence of any bias, or of any tendency to exaggerate the story, so far as P.Ws. 6, 7, 8, 9, 10, 11 and 12 are concerned. The learned Public Prosecutor also concedes, that the only motive that the prosecution is able to put forward, is not very convincing, and does not lead to the conclusion that the accused bore any ill-will, or malice towards the deceased, or attacked him on account of prior enmity. The petty incident referred to is that, while some chunam was being removed by the accused's aunt Ramu, and her mother, some of it is said to have been blown about, and the deceased scolded them, and this led to a quarrel between Ramu and the deceased, and the latter pushed her out. This was some 2 months before the occurrence. It is apparent that no other subsequent incident took place between the parties. There can be no doubt that the point that, apparently weighed heavily and immediately with the accused, was the fact that his words of abuse were not received meekly by P.W.6, and the deceased (both cripples) and that these two sub-normal men dared to challenge the correctness of his action and to rebuke him for his high-handedness. Apparently, the accused then lost his temper; and being an excitable and fiery young man, proceeded to neck down the deceased and stab him.

17. Three of the assessors are of the opinion that the accused is guilty of the offence of culpable homicide, not amounting to murder, punishable under section 304 I.P.C., while the fourth is of the opinion, that the accused is guilty of murder.

18. For the reasons given above, I am unable to agree with the opinion of the majority of the assessors, as the evidence do not disclose that the offence committed by the accused has been in any way mitigated, and [illegible] within any of the exceptions to section 300 I.P.C. This is not a case in which the case [illegible] within the mischief of exception (iv) as the deceased did not receive the fatal injury in the course of a sudden fight, nor can it be said, that the accused did not take undue advantage, or act in a cruel manner. I find that the offence committed by the accused amounts to murder and convict him under section 302 I.P.C. But in view of the fact, that the quarrel was a sudden one, and the accused acted in the heat of passion, when he stabbed the deceased, I consider this a fit case for the lesser

penalty. I accordingly sentence the accused to undergo transportation for life. He will be committed to the Central Jail, Cannanore, to undergo the sentence.

Dictated to the shorthand writer, transcribed by him and pronounced in open court, this the 19th day of July 1946.

(Sd.) P. RAMALINGAM,
Sessions Judge.

APPENDIX.

The following witnesses were examined:—

FOR PROSECUTION

1. Dr. Purushothama Kamath (Medical Practitioner).
2. Dr. S. Shanker Rao (Sub Assistant Surgeon).
3. Dr. E. S. Mannadier (Ex-Assistant District Medical Officer).
4. Dr. M. R. Shetty (Medical Officer, L. F. Dispensary).
5. Sri Venkat Rao (Magisterial Clerk).
6. Abbubakkar Beary.
7. H. Sheshakrishna Rao.
8. Damodara Devadiga.
9. Pushpa.
10. Ramachandraya.
11. Ahmad Beary.
12. K. Ramaraya Kamath (Patel).
13. T. Seetharama (P.C. 295).
14. S. Lobo (H.C. 486).
15. Sri M. N. Suvarna (Sub Inspector).
16. Mr. M. S. Manippady (Sub Inspector).

FOR DEFENCE—None.

The following exhibits were filed:

FOR PROSECUTION

P1	23-3-1946	Statement of the deceased recorded by the patel.
P2	do	Intimation of accident sent by P.W.2 to the police.
P3	7-4-1946	Wound certificate issued by P.W.2 regarding the injuries on the deceased.
P4	23-3-1946	Intimation of death sent by P.W.2 to the police.
P5	24-3-1946	Post mortem certificate.
P6	25-3-1946	Wound certificate issued by P.W.4 to the accused.
P7	11-4-1946	Office copy of letter sent by the Magistrate to the Chemical Examiner.
P7(a)	24-4-1946	Report of the Chemical Examiner.
P7(b)	17-5-1946	Report of the Imperial Serologist.
P8	23-3-1946	Report of the patel P.W.12 to the police.
P9	do	First Information Report 26/46 of Mulky Station.
P10	23-3-1946	Do 60/46 of Mangalore South Station.
P11	24-3-1946	Do 27/46 of Mulky Station.
P12	26-3-1946	Plan of the scene of offence.
P13	28-5-1946	Statement of the accused in the lower court.

FOR DEFENCE

D1	7-5-1946	Portion marked on page 2 of the deposition of P.W.7 in the lower court.

MATERIAL OBJECTS

1. A pen-knife.
2. Blood-stained cement plaster.

2(a) Blood-stained chip of wood.

(Sd.) P. RAMALINGAM,
Sessions Judge.

WORDS: 3,697.

(True copy)

Sessions Judge.

S. P. Works, Mangalore—P. C. No. S. K. 23—27-7-'46/15 Copies

Lifco Concrete

v. No 4450

Second time

Recommended.

C. No. 31063/53 Cts IV.

602—26-2-52.

35/9/3

HOME DEPARTMENT.

G.O. Ms. No. 790 Dated 9.3.53.

PRISONERS—Advisory Board { ~~The Penitentiary, Madras~~ / Central Jail, Cannanore. Convict No. 4450 — Release—Ordered.

VENKAPPA MOILI.

READ—the following :—

From the Inspector-General of Prisons, No. 145/54/53, dated 19.1.53.

ORDER—

In exercise of the powers conferred by section 401 of the Code of Criminal Procedure, 1898, ~~His Excellency~~ the Governor of Madras hereby remits ~~whole of the sentence of~~ ——————————————

ANNEXURE.

~~The Penitentiary, Madras~~
Central Jail, Cannanore.

Number and name of Convict including father's name.	Residential address including taluk and district.	Sentencing Court and Case No.	Sentence and date.	Date on which release should take effect.	Period of good conduct.
4450. VENKAPPA MOILI S/o. Thimmappa Moili. cls. 2 & 3 on N 5 Cf.	Udupa, Mangalore S. Kanara & Dt. Col 4 on N 5 Cf	Sessions Judge S. Kanara S.C. 13/46. ↓ N 19 Cf	Transportation for life. 19.7-46. 'X' on N 23 Cf		

DK
4.3.53.

18/4/26/13

N.7

C. No. 31063/53

602—26-2-52.

HOME DEPARTMENT.

Prisoners—Advisory Board ——— Central ——— **Jail** ——— Cannanore. ——— ~~Penitentiary,~~
~~Madras~~ ——— **Convict No.** 4450 VENKAPPA **Release.** MOILI

From the Inspector-General of Prisons, No. 145/S4/53, dated 19-1-53.

1.	Name of Jail	Central Jail, Cannanore.
2.	Number and name of convict	4450 VENKAPPA MOILI
3.	Father's name	Thimmappa Moili.
4.	Residential address including taluk and district.	Udya, Mangalore, S.Kanara.
5.	Court and Case No.	Sessions Judge, South Kanara C 13/46
6.	Sentence and date with section of law ..	Transportation for life 19-7-46. Sec 302 I P.C
7.	Date of completion of ~~3/4 or~~ 2/3 sentence ..	9-2-52 Y. M. D.
8.	Unexpired portion of sentence on 11-1-53.	5 6 11
9.	Conduct in Jail	Satisfactory
10.	Recommendation of the D.M./D.S.P. South Kanara.	Recommended.
11.	Recommendation of the Board	Recommended.
12.	Period spent in Jail (Date of sentence 19.7.46)	About 6 years and 7 months.

The charge against the prisoner was that he murdered one Lokaya Moili by stabbing him with a pen-knife on 23-3-46. The facts of the case are as follows.

The ~~accused~~ prisoner is a weaver by profession, and was living in the village with his parents. He left the village some four or five years ago and returned some six months ago. On 23-3-46 at about noon, the accused went and sat down in the shop of P.W. 6, and wanted a beeda for a quarter of an anna. P.W.6 told him that he had none. The prisoner abused him. On the other side, the deceased was seated in his shop dividing a custard apple among some children. The deceased called out

out the prisoner, and rebuked him saying that P.W.6 and he were both lame, and the prisoner should not quarrel with such people. The prisoner retorted, "~~that~~ you are lame and so is he. You will see the fun of lame men now." The prisoner went up and pushed him back. There ~~upon~~ he drew a pen-knife from his waist and stabbed the deceased on the left side of the abdomen. The deceased tried to catch ~~him~~ hold of the ~~accused~~ prisoner, but he managed to give him another stab on the left fore-arm. ~~He later died at about 6-30 P.M. on that day.~~ The deceased was taken to the hospital where after an operation he died. The Sessions Judge South Kanara found the prisoner guilty under Sec 302 I.P.C. and sentenced him to transportation for life. ~~on 29-8-49.~~

The prisoner completed 2/3 of his sentence on 9-2-52. His case was placed before the Advisory Board meeting held on 23-12-51. Though the D.S.P. and D.M. South Kanara, recommended his release the Advisory Board did not recommend his release as he had done only 5 years. The I.G. was requested to resubmit the case of the above prisoner in January 1953 after consideration by the Advisory Board and with its recommendation. His case was accordingly placed before the Advisory Board meeting held on 11-1-53. Please see the police report at pp 13-15 c.f The report shows that the people in the locality welcome his premature release and no adverse circumstance is likely to appear and that the relatives of the victim have no revenge and they have no objection to the release of the prisoner. In the circumstances stated therein, the D.S.P, D.M.South Kanara, and the Advisory Board have recommended the premature release of the prisoner.

The prisoner is aged 29 years and his occupation is weaver. The unexpired portion of sentence as on 11-1-53 is 5 years 6 months and 11 days. He has been in prison for about 6 years and 7 months. In the circumstances it is for orders whether the agreed recommendation of the D.S.P. D.M.South Kanara and the Advisory Board may be accepted.

20.2.53

see prisoner killed the deceased in petty quarrel and the murder

31063

24
24/2

does not appear to be a premeditated one the Sessions judge has held that "in view of the fact that the quarrel was a sudden one, and the accused acted in the heat of passion when he stabbed the deceased, I consider this a fit case for the lesser penalty." The police report shows that the prisoner's original conduct was quite normal & peaceful & that the respectable inhabitants of the locality welcome the release. The prisoner has been in jail for about 6 years & 7 months. May be released as recommended by the D.S.P. D.H & the Advisory Board.

11-22-2

fp 13-1-54

B. A. Ramalakshmanan
28.2.53.

May be released as recommended by the Board.

M (Law)
: M.

24-2-53.

M (Law) K.D. Krishnamurthi
24-2-53
C-M Yes.
C. Rajagopalachari
28.2.53

SECRETARY TO GOVERNMENT
2-MAR 953
HOME DEPARTMENT

JOINT SECRETARY TO GOVERNMENT
2-MAR 1953
HOME DEPARTMENT

A draft Order is submitted for approval.

Gx
2/3

Gt
4.3.53.

Gt
4/3/53

fp 27-28

Gt
7/3

Issued as G.O.Ms. No. d. 9.3.53.

No.R. 1207 /53

From

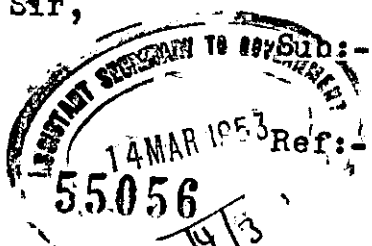
Office of the Superintendent,
Central Jail, Cannanore, Dated 12-3-53

To

Sri.K.P.R. Menon, Superintendent.

The Joint Secretary to Government,
Home Department, Madras.

Sir,



Sub:- Prisoners - Advisory Board, Central Jail, Cannanore - Convict No.4450 -Venkappa Moili - Release - Ordered-

Ref:- Copy of G.O.Ms.No. 790 Home Department Dated 9th March 1953.

I hereby acknowledge receipt of the above Government Order.

Superintendent.

Madras.

Copy Submitted to the Inspector-General of Prisons, The above prisoner has this day been released.

mvr.

may be filed with the Govt. Home Dept. Order referred to above.

22/3/53